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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/596,326

06/09/2006

David A. Eves

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BURNS & LEVINSON, LLP  
125 SUMMER STREET  
BOSTON, MA 02110

EXAMINER

DENG, ANNA CHEN

ART UNIT

PAPER NUMBER

2191

NOTIFICATION DATE

DELIVERY MODE

10/13/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@burnslev.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/596,326	<b>Applicant(s)</b> EVES ET AL.	
	<b>Examiner</b> ANNA DENG	<b>Art Unit</b> 2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to amendment filed on 8/2/2010.
2. The objection to the Abstract is withdrawn in view of applicant's amendment.
3. The objection to claims 1 and 10 is withdrawn in view of applicant's amendment.
4. Claims 1-15 are pending.

### ***Response to Amendment***

#### ***Specification***

5. The disclosure is objected to because of the following informalities: the Amendments to the Specification replace paragraph [0034] with a new paragraph. However, the original Specification does not have paragraph [0034], instead, the original Specification has line number and page number. All amendment to the Specification should be refer to the original version but not the publish version.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1 and 10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

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one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1 and 10 have been amended to change limitation “requesting assets and effects according to the terms in the description” to “requesting assets identified by the asset terms and effects identified by the effect terms in the description”. The limitation “identified by the asset/effect terms” was not described in the specification in such a way as to reasonable convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Thus is new matter. Applicant is required to remove such new matter from the pending claims. The limitation “requesting assets identified by the asset terms and effects identified by the effect terms in the description” is interpreted to original meaning of requesting assets and effects according to the terms in the description” as in Specification, page 1, line 32 to page 2, line1; page 2, line 8; and page 5, lines 14-15.

**Per Claim 1:**

Eves discloses:

**A method of operating a set of devices comprising receiving a real-world description in the form of an instruction set of a markup language** (Eves, [0004], a method of operating a set of devices comprising receiving a real-world description in the form of an instruction set of a markup language), **the description including asset terms and effect terms** (Eves, [0013], it possible to create instruction sets that correspond to real-world experiences, within the confines of a markup language, that

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can be used by enabled devices to render those experiences. Such real-world experiences include visual, audio, olfactory and tactile sensations. [0014], The markup language describes experiences in the physical world. It allows the authoring of spatial, temporal and structural elements but also more ambient qualities such as mood, sensory factors and the dynamics of the space. For example, [0044], Light –levels (relative/absolute), moods, colours, position, focus, and [0024], For example, if the real-world description reads <FOREST>, <SUMMER>, <EVENING> then the browser part in the receiving means 24 interprets this into specific instructions relating to the colour tones and luminance level for the adjusting means 26 to adjust their levels accordingly. Here, the description asset could be light, and effect could be colours and luminance level),

**requesting assets and effects according to the terms in the description, modifying at least one asset according to at least one effect** (Eves, [0024], For example, the lighting device 14 (shown in more detail in FIG. 2) has receiving means 24 for receiving the real-world description in the form of an instruction set of a markup language, the receiving means 24 including part of distributed browser that interprets the instructions of the instruction set. The portion of the browser in the receiving means 24 communicates with adjusting means 26 that is arranged to adjust one or more parameters of the lighting device 14. For example, if the real-world description reads <FOREST>, <SUMMER>, <EVENONG> then the browser part in the receiving means 24 interprets this into specific instructions relating to the colour tones and luminance level for the adjusting means 26 to adjust their levels accordingly), **and**

**operating the devices according to the assets** (Eves, [0004], operating said devices according to said description).

**Per Claim 2:**

Eves discloses:

**wherein the modifying of an asset is executed by a first device of the set of devices, the first device transmitting the modified asset to a second device in the set** (Eves, [0026], In a second embodiment (outlined in the flowchart of FIG. 4) the description is read at a local server, which can be a dedicated device (first device)...In this embodiment a browser or operating system present on the local server interprets the instructions of the real-world description and generates specific parameter adjustment (modifying) for communicating to the relevant device (second device).

**Per Claim 3:**

Eves discloses:

**wherein a device of the set of devices receives an unmodified asset, the modifying of the asset being executed by that device** (Eves, [0024], For example, the lighting device 14 (shown in more detail in FIG. 2) has receiving means 24 for receiving the real-world description in the form of an instruction set of a markup language, the receiving means 24 including part of distributed browser that interprets the instructions of the instruction set. The portion of the browser in the receiving means 24 communicates with adjusting means 26 that is arranged to adjust one or more

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parameters of the lighting device 14. For example, if the real-world description reads <FOREST>, <SUMMER>, <EVENONG> then the browser part in the receiving means 24 interprets this into specific instructions relating to the colour tones and luminance level for the adjusting means 26 to adjust their levels accordingly, In this example the likely colour tone would be a pleasant green and the light level would be low but warm. The browser part interprets instructions of a general type to generate specific parameter adjustments (modifying)).

**Per Claim 4:**

Eves discloses:

**and further comprising receiving, as a portion of the real-world description, location data, the location data being associated with at least one term of the real-world description** (Eves '634, [0040], The language contains a wide range of states that can be rendered by the devices in a real-world representation system. Such states relate to: ... [0047] Location-absolute, fantasy, generic type).

**Per Claim 5:**

Eves discloses:

**wherein at least one of the terms of the real-world description is location neutral** (Eves, [0047] Location-absolute, fantasy, generic type).

**Per Claim 6:**

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Eves discloses:

**and further comprising retrieving location information for at least some of the devices in the set of devices, matching the location information with the location data, and modifying only some of the assets according to the matching** (Eves, [0038], An example of this is a game that a user may play, via a PC or games console for example. If a game is augmented with a description relating to the scenario and/or locations of the game world, then as the user navigates the game world the environment around them changes accordingly).

**Per Claim 7:**

Eves discloses:

**and further comprising distributing the description amongst the devices of the set** (Eves, [0024], this description is distributed amongst the devices).

**Per Claim 8:**

Eves discloses

**and further comprising reading the description at a local server** (Eves, [0026], the description is read at a local server, which can be a dedicated device...).

**Per Claim 9:**

Eves discloses:



**wherein the modifying of at least one asset comprises modifying an asset according to a plurality of effects** (Eves, [0009], adjusting means for adjusting one or more characteristics of the device according to said description).

**Per Claim 10:**

This is system version of the claimed method discussed above (claim 1), wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also anticipated by Eves.

**Per Claim 11:**

Eves discloses:

**wherein at least some of the devices of the set are interconnected by a wireless network** (Eves, [0020], The devices are interconnected by either a wireless network or a wired network such as a powerline carrier network or a conventional cable system such as RS232 leads).

**Per Claim 12:**

Eves discloses:

**wherein at least some of the devices of the set are interconnected by a powerline carrier network** (Eves, [0020], The devices are interconnected by either a wireless network or a wired network such as a powerline carrier network or a conventional cable system such as RS232 leads).

**Per Claim 13:**

Eves discloses:

**wherein a device of the set is a local server** (Eves, [0026], the description is read at a local server, which can be a dedicated device) .

**Per Claim 14:**

Eves discloses:

**wherein one or more devices of the set of devices is provided with storage capability, which capability is accessible by at least one other device of the set** (Eves, [0034], RF systems, such as Bluetooth are also suitable for transmitting and receiving descriptions. In this way descriptions can migrate by being stored on devices with Buletooth capability. ...there exists the ability to pass descriptions between the mobile device and a local storage medium).

**Per Claim 15:**

Eves discloses:

**wherein each device of the set of devices has associated location information** (Eves '634, [0040], The language contains a wide range of states that can be rendered by the devices in a real-world representation system. Such states relate to: ... [0047] Location-absolute, fantasy, generic type).

***Response to Arguments***

8. Applicant's arguments filed 8/2/2010 have been fully considered but they are not persuasive.

Applicant argued:

The Examiner has failed to indicate where Eves US 2002/0169817 discloses the limitation of “receiving a real-world description in the form of an instruction set of a markup language, the description including asset terms and effect terms”. The section of Eves US2002/0169817 cited by the Examiner do not expressly disclose the recited limitation. Indeed, a text search of the specification of the Eves US2002/0169817 indicates that the phrases "asset term" and "effect term" do not even occur therein. The fact that Eves US2002/0169817 discloses a real world description“ in the form of instruction set a markup language does not expressly teach, disclose or suggest the use of asset terms or effect terms within the description, or, as recited elsewhere in claim 1, the relationship by which an effect term is used to modify an asset.

Examiner response:

The Examiner disagree applicant's arguments. Eves (US 2002/0169817) does discloses "*real-world description in the form of an instruction set of a markup language*" see Eves, [0004], “a method of operating a set of devices comprising receiving a real-world description in the form of an instruction set of a markup language”, and “*description including asset terms and effect terms*” see Eves, [0013], it possible to

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create instruction sets that correspond to real-world experiences, within the confines of a markup language (for example, XML see [0053], The language is XML compliant), that can be used by enabled devices to render those experiences. Such real-world experiences include visual, audio, olfactory and tactile sensations. [0014], The markup language describes experiences in the physical world. It allows the authoring of spatial, temporal and structural elements but also more ambient qualities such as mood, sensory factors and the dynamics of the space. For example, [0044], Light –levels (relative/absolute), moods, colours, position, focus, and [0024], For example, if the real-world description reads <FOREST>, <SUMMER>, <EVENING> then the browser part in the receiving means 24 interprets this into specific instructions relating to the colour tones and luminance level for the adjusting means 26 to adjust their levels accordingly.

Here, the Light could be a state of *asset* term in XML, as well as the colours and luminance level could be state of *effect* term in XML, and the effect of colours and luminance level are used to modify the asset of Light. The terms “asset” and “effect” are names of the elements declared in the markup language, for example, XML. Elements in XML document structure can be declared by any names that just as name of variable declared in programming language. In fact, the functionalities of a particular element would not be interfered by declared by different term (names of element in XML). Eves US 2002/0169817 teaches the functionalities of asset terms and effect terms, that is **modifying at least one asset according to at least one effect** (Eves, [0024], For example, the lighting device 14 (shown in more detail in FIG. 2) has receiving means 24 for receiving the real-world description in the form of an instruction set of a markup

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language, the receiving means 24 including part of distributed browser that interprets the instructions of the instruction set. The portion of the browser in the receiving means 24 communicates with adjusting means 26 that is arranged to adjust one or more parameters of the lighting device 14. For example, if the real-world description reads <FOREST>, <SUMMER>, <EVENONG> then the browser part in the receiving means 24 interprets this into specific instructions relating to the colour tones and luminance level for the adjusting means 26 to adjust their levels accordingly), **and operating the devices according to the assets** (Eves, [0004], operating said devices according to said description).

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136 (a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anna Deng whose telephone number is 571-272-5989.

The examiner can normally be reached on Monday to Friday 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Zhen can be reached on 571-272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC2100 Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Anna Deng/

Primary Examiner, Art Unit 2191